

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Cassandra Watson	Team: Team # 6	CCRB Case #: 201113177	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 10/07/2011 6:00 AM	Location of Incident: § 87(2)(b)	Precinct: 48	18 Mo. SOL 4/7/2013	EO SOL 4/7/2013	
Date/Time CV Reported Fri, 11/11/2011 10:56 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 11/11/2011 10:56 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. CPT Lorenzo Johnson	00000	894081	GANG BX
2. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. LT Edward Barry	00000	896215	GANG BX
2. DT3 Thomas Dunsing	07648	903854	GANG BX
3. DT3 Antonio Benero	00523	896827	GANG BX
4. DT3 Jacquel Rodriguez	00054	920774	GANG BX
5. DT1 James Shanahan	00709	905041	GANG BX
6. POM Joseph Higgins	17253	920393	GANG BX

Officer(s)	Allegation	Investigator Recommendation
A.CPT Lorenzo Johnson	Abuse: Captain Lorenzo Johnson supervised the entry and search of § 87(2)(b) in the Bronx.	§ 87(2)(b)
B. An officer	Abuse: An officer refused to show a search warrant to § 87(2)(b)	§ 87(2)(b)
C. An officer	Abuse: An officer threatened § 87(2)(b) with the use of force.	§ 87(2)(b)
D. An officer	Discourtesy: An officer spoke obscenely and/or rudely to § 87(2)(b)	§ 87(2)(b)

Case Summary

On November 11, 2011, § 87(2)(b) filed the following complaint with the CCRB by phone.

On October 7, 2011, at approximately 6:00 a.m., Captain Lorenzo Johnson of Bronx Gang Squad supervised a search warrant execution at § 87(2)(b) in the Bronx. The following allegations resulted:

- **Allegation A – Abuse of Authority: Captain Lorenzo Johnson supervised the entry and search of § 87(2)(b) in the Bronx.**

§ 87(2)(g)

- **Allegation B – Abuse of Authority: An officer refused to show a search warrant to**

§ 87(2)(b)

- **Allegation C – Abuse of Authority: An officer threatened § 87(2)(b) with the use of force.**

- **Allegation D – Discourtesy: An officer spoke obscenely and/or rudely to § 87(2)(b)**

§ 87(2)(g)

This case was initially assigned to Inv. Adriana Lizarazo. Following her resignation from the agency, it was reassigned to Inv. Cassandra Watson on August 2, 2012.

Results of Investigation

Civilian Statement(s)

Complainant/Victim: § 87(2)(b)

- *She is a § 87(2)(b)-old Hispanic female who is 5'4" tall, weighs 250 pounds and has brown hair and brown eyes.* § 87(2)(b)

CCRB Statement:

§ 87(2)(b) was interviewed at the CCRB on October 25, 2011 (encl. 3A-D). She provided the following statement.

On October 7, 2011, at approximately 6:00 a.m., at least ten officers broke down the front door and entered her residence at § 87(2)(b) in the Bronx. Also in the apartment were § 87(2)(b)'s husband, § 87(2)(b) and their children, § 87(2)(b) and § 87(2)(b) and § 87(2)(b) ages § 87(2)(b) and § 87(2)(b) old, respectively. § 87(2)(b) and § 87(2)(b) were sleeping in the living room. Four officers were in uniform and had helmets, shields and goggles. The remaining officers were in plainclothes.

The officers pointed their guns at § 87(2)(b) and their children who were on the bed and yelled "search warrant." The officers did not show § 87(2)(b) the search warrant nor did she request to see it. The officers took § 87(2)(b) to the hallway and placed him in handcuffs. § 87(2)(b) was unable to describe these officers. § 87(2)(b) did not hear any conversation between her husband and the officers and she did not hear § 87(2)(b) yell or curse at any officers. § 87(2)(b) and § 87(2)(b) were asked to sit down on the couch in the living room.

§ 87(2)(b) did not recall how many officers escorted § 87(2)(b) and § 87(2)(b) out of their rooms and § 87(2)(b) was in handcuffs. § 87(2)(b) asked one of the

officers why her son was in handcuffs and the officer told her to relax. PO1 escorted § 87(2)(b) to § 87(2)(b)'s bedroom and § 87(2)(b) who was approximately five feet away, told her that he did not know what was happening. An officer in plainclothes who was standing with § 87(2)(b) told him to "shut up." § 87(2)(b) did not hear any officers curse at her husband and she was unable to describe the officer who was with § 87(2)(b) § 87(2)(b) did not recall if her husband spoke to her in Spanish or any other statements he made. PO1 is a white male in his 50's who is 5'6" tall, stocky and had some grey hair. PO1 was dressed in plainclothes and was wearing a hat.

PO1 was alone with § 87(2)(b) in her daughter's room and he asked her where the heroin was and told her that the officers were going to break her walls. § 87(2)(b) told the officer that she did not know and PO1 replied that ACS was outside and were waiting for the officers to call them to get the children. PO1 asked § 87(2)(b) to tell him where the narcotics were and he will guarantee that her children are not taken anywhere. There was an officer dressed in plainclothes who walked in and out of the room and PO1 pointed at him and told § 87(2)(b) that he was the "boss." PO2 is white male in his 50's who is 5'7" tall, slim to medium build and had short pushed back black hair. PO2 was not wearing a hat. § 87(2)(b) was in her daughter's room for approximately an hour and a half and at some point the officers brought all her children into the room. § 87(2)(b) indicated that all the officers were white males and there was one Hispanic female of light complexion who is in her 40's who allowed her and her children to get dressed. § 87(2)(b) was unable to provide additional physical descriptions for any other officers.

Victim: § 87(2)(b)

- *He is a § 87(2)(b)-old Hispanic male who is 5'6" tall, weighs 170 pounds and has black hair and brown eyes.* § 87(2)(b)

CCRB Statement:

§ 87(2)(b) was interviewed at the CCRB on October 25, 2011 (encl. 4A-F). § 87(2)(b) (g) § 87(2)(b) stood by the front door with PO1 and was approximately twelve feet from his four children who were sitting in the living room and who were able to see him from the living room. PO1 is a white male in his early 50's who is 5'8" tall, weighs 200 pounds and has blue or green eyes. PO1 was dressed in plainclothes and was wearing shorts and a blue cap. § 87(2)(b) was only wearing his underwear and PO1 took him outside of the apartment and spoke to him in the hallway for a few minutes. PO1 asked § 87(2)(b) where "it" was and he told the officer that he did not know what he was referring to and requested a lawyer. § 87(2)(b) asked PO1 to show him the search warrant and PO1 replied that he did not have to show him anything. PO1 and § 87(2)(b) were alone in the hallway. § 87(2)(b) told PO1 that he was cold and PO1 brought him back inside the apartment to get him dressed.

§ 87(2)(b) stood by the entrance door with PO1 and an officer escorted § 87(2)(b) from the living room to § 87(2)(b)'s bedroom in the back of the apartment. As § 87(2)(b) walked away, § 87(2)(b) told her in Spanish that she did not have to tell the officers anything because he had already requested a lawyer. PO2 heard what he had said and came charging out from the living room and grabbed § 87(2)(b) by his arm. PO2 is a white male in his early 50's, who is 5'8" tall, weighs 200 pounds and had no facial hair. PO2 was dressed in plainclothes and was wearing a cap. § 87(2)(b) believed that PO2 was the supervisor because he was ordering other officers. PO2 called § 87(2)(b) a "fucking pato" which in English means "fucking faggot" and asked him if he likes to beat up women. § 87(2)(b) later indicated that PO2 actually called him a "fucking" woman beater.

PO2 also told § 87(2)(b) that he would kick his “fucking ass” in front of his children. PO2 grabbed § 87(2)(b) against the wall and told him that he would put his “fucking” head through the “fucking” wall. § 87(2)(b) later stated that PO2 actually told him that he will kick his “fucking ass” in front of his “fucking” kids and that he was going to put his “fucking” head through the “fucking” wall and nobody can do “shit” because he is in charge. § 87(2)(b) later added that PO2 also said that he can do whatever “the fuck” he wants and nobody can do “shit.” PO1 and § 87(2)(b)’s children witnessed this. § 87(2)(b) did not know if any other officers were within earshot of these statements. PO2 repeated the same statements to § 87(2)(b) every time he walked by him. § 87(2)(b) was quiet and compliant and he asked PO2 what was wrong with him. § 87(2)(b) did not yell or curse at the officer.

PO1 took § 87(2)(b) outside to the hallway and repeatedly asked him where “it” was. At some point an officer came outside and gave PO1 a bag with bullets that were recovered from inside the apartment. PO1 and § 87(2)(b) were alone in the hallway and PO1 told him that he was going to take his wife and children and informed him that the Administration for Children’s Services (ACS) was waiting downstairs. § 87(2)(b) collects Karate weapons and the officers also found a sword, ninja stars and other unspecified kung-fu weapons.

PO2 also informed § 87(2)(b) that ACS was downstairs and that they would take his wife and children. PO2 made this statement in front of PO1; however, § 87(2)(b) did not recall at what point of the incident this occurred. No other officers witnessed this. The incident lasted approximately one hour and § 87(2)(b) was transported to the 48th Precinct stationhouse and released from there. § 87(2)(b) was unable to provide any detailed descriptions for any of the other officers at the location and he was only able to indicate that there was a Hispanic and a white female dressed in plainclothes present at the location.

Witness: § 87(2)(b)

- *He is a § 87(2)(b)-old Hispanic male who is 5’10” tall, weighs 200 pounds and has brown hair and brown eyes.* § 87(2)(b)

CCRB Statement:

§ 87(2)(b) was interviewed at the CCRB on October 25, 2011 (encl. 5A-D). § 87(2)(g)

§ 87(2)(b) woke up to the officers screams and when he opened his eyes he saw four uniformed officers in his bedroom. Two officers were to the right side of § 87(2)(b)’s bed and they had their guns pointed at his face approximately one foot away. The officers were wearing helmets and § 87(2)(b) did not see their faces.

§ 87(2)(b) was handcuffed and he and § 87(2)(b) were taken to the living room to sit down on a couch next to § 87(2)(b) and their two other siblings. There were approximately eight officers in the apartment and half of them were in plainclothes. § 87(2)(b) observed his father, § 87(2)(b) handcuffed by the entrance door and three officers were guarding him. All uniformed officers left the location right away. § 87(2)(b) was unable to describe the three officers and only recalled that they were white males.

§ 87(2)(b) was approximately ten feet away from his father who was sitting on a bucket of paint in the hallway by the entrance door. An officer took § 87(2)(b) to his sister’s room and § 87(2)(b) heard an officer say that ACS was waiting for them downstairs. § 87(2)(b) was unable to describe this officer. A fifth officer, described as a white male in his 50’s, who is 5’11” tall, heavy set and had grey hair, waited in the living room with § 87(2)(b) and

his siblings. The officer was dressed in plainclothes, wearing jeans, a police jacket and did not have a hat.

§ 87(2)(b) heard one of the three white male officers who were with § 87(2)(b) state that if he did not tell them where “it” was, he would beat him in front of his children. One of the officers called § 87(2)(b) a “faggot.” § 87(2)(b) did not curse back at the officer and after the officer made these statements he walked away. § 87(2)(b) did not see an officer grab his father against the wall. Another officer asked § 87(2)(b) a question and one of the three officers with § 87(2)(b) told him to “shut up” before he could answer.

§ 87(2)(b) did not recall what his father was asked and indicated that he was calm and quiet. § 87(2)(b) did not hear his father ask the officers for the search warrant but before PO2 cursed at him, § 87(2)(b) heard his father say that the officers were there with a search warrant. At some point, § 87(2)(b) and his siblings were taken to § 87(2)(b)'s bedroom where their mother was. § 87(2)(b) was unable to describe any other officers but indicated that a Hispanic female who is in her 30's, 5'6" tall and slim was present on scene; however, she was not present when the unidentified white male officer stated the above-mentioned profanities to § 87(2)(b).

Witness: § 87(2)(b)

- He is a § 87(2)(b)-old Hispanic male who is 5'6" tall, weighs 160 pounds and has brown hair and brown eyes. § 87(2)(b)

CCRB Statement:

§ 87(2)(b) was interviewed at the CCRB on October 25, 2011 (encl. 6A-D). His statement was consistent with § 87(2)(b) and § 87(2)(b) and he provided the following additional details.

§ 87(2)(b) observed that his father, § 87(2)(b) was in handcuffs by the front door. § 87(2)(b) was able to see his father who was approximately twenty feet away and who was calm. After five minutes, an officer took § 87(2)(b) to § 87(2)(b)'s bedroom. § 87(2)(b) and his siblings stayed in the living room with an officer who was watching them. § 87(2)(b) was unable to describe this officer and he only indicated that he was a white male in plainclothes.

Three officers were with § 87(2)(b) by the door. § 87(2)(b) was unable to describe any of the officers at the location, but recalled that the three officers were white males. One of the white male officers called § 87(2)(b) a “pato” and a “fucking” woman beater. The officer also threatened to put § 87(2)(b)'s head through the “fucking” wall and stated that he is the law and no one can do anything about it. The officer repeated these statements to § 87(2)(b) every time he walked by him and said it approximately three times. § 87(2)(b) tried to speak to the officer but the officer repeatedly asked him to “shut up.” § 87(2)(b) did not hear any officers making threats about ACS. § 87(2)(b) did not hear his father ask any officers for the search warrant.

An officer took § 87(2)(b) outside of the apartment and brought him back inside to get him clothes. No other discourtesies and/or threats occurred after § 87(2)(b) was brought back into the apartment.

Attempts to Contact Civilians

§ 87(2)(b) would not give consent for the CCRB to interview her children, § 87(2)(b) and § 87(2)(b) aged § 87(2)(b) and § 87(2)(b) old. Therefore, they were not interviewed. § 87(2)(b) failed to appear for two scheduled photo arrays on December 27, 2011 and January 17, 2012,

without contacting the CCRB to cancel or reschedule. § 87(2)(g)

A check of the Department of Corrections online inmate locator revealed that he was not incarcerated.

NYPD Statement(s):

Witness Officer: LIEUTENANT EDWARD BARRY

- *He is a § 87(2)(b)-old white male who is 6'0" tall, weighs 195 pounds and has brown hair and blue eyes.*
- *On October 7, 2012, Lieutenant Barry worked from 4:30 a.m. to 1:15 p.m. He was the supervisor during the execution of a search warrant and was working with a team of officers from the Bronx Gang Squad. He was dressed in plainclothes and was assigned to an unmarked vehicle.*

Memo Book:

At 5:15 a.m., to 48th Precinct regarding search warrant § 87(2)(b) At 6:10 a.m., ESU entry into § 87(2)(b) by A-Team. Arrest of one subject, § 87(2)(b) DOB § 87(2)(b) for § 87(2)(b) and search started. At 7:55 a.m., search completed. Premises secured and wife and children were left behind.

CCRB Statement:

Lt. Barry was interviewed at the CCRB on May 22, 2012 (encl. 7A-E). He provided the following statement. On October 7, 2012, at approximately 6:00 a.m., a search warrant was obtained for § 87(2)(b) in the Bronx and the entry was made by the apprehension team of Emergency Service Unit officers. ESU secured the location and then came out and gave Lt. Barry the indication that they could go into the location to conduct the search. The individuals were secured and handcuffed inside.

ESU was inside the premises for approximately fifteen minutes. Gang Squad officers were located in the hallways and stairwell in the vicinity of the apartment door. Some officers were part of the perimeter security and were outside of the building. Lt. Barry did not recall which officers had this assignment. Lt. Barry was shown the tactical plan and based on it he indicated that Det. James Shanahan was securing the outside of the building and Det. Antonio Benero's assignment consisted in holding the lobby's door open for ESU and they entered in the building. PO Joseph Higgins was the recorder and his assignment consisted in assisting Det. Thomas Dunsing who was the arresting officer. Captain Lorenzo Johnson was the overall supervisor.

Lt. Barry did not have an independent recollection of which officers were inside the apartment but based on the tactical plan he indicated that Det. Dunsing, PO Higgins and Captain Johnson would have at some point been inside the premises. As a general policy the officers stick to the assignments listed on the tactical plan. Lt. Barry described the layout of the apartment as having a wide open living room/dining area as soon as you walk into the apartment. To the right there was a large bedroom which was the one Lt. Barry proceeded to search. Lt. Barry did not recall if there were any other rooms in the apartment.

When the officers walked in the apartment, § 87(2)(b) and the children were together in the front section area. There were two to three children aged § 87(2)(b) old. Lt. Barry did not recall any of the children being in handcuffs. The children were sitting on a mattress on the floor and were scared and crying. § 87(2)(b) was also sitting with the children and Lt. Barry believed she was handcuffed. § 87(2)(b) appeared upset but Lt. Barry did not have any interaction with § 87(2)(b) § 87(2)(b) was sitting on the mattress. He was angry and

made a statement that Lt. Barry did not recall. Lt. Barry went into the location and proceeded to the back bedroom and conducted a search looking for weapons or contraband with negative results. Lt. Barry was able to hear § 87(2)(b) from the bedroom but did not know what he was saying. Lt. Barry indicated that he did not see any individual officers having a direct conversation with § 87(2)(b) and § 87(2)(b) was speaking in general.

Shortly after, multiple knives were recovered from the apartment. However, Lt. Barry did not recover these weapons and he did not know which officers recovered the weapons or where inside the apartment these weapons were recovered. The entire search lasted approximately two hours. Lt. Barry did not have any interaction with § 87(2)(b) and once he walked into the apartment he went directly straight to the back room. Lt. Barry did not recall what § 87(2)(b) was wearing or whether he was dressed. However, he was not nude. Lt. Barry did not recall seeing § 87(2)(b) in his underwear. Lt. Barry did not recall seeing § 87(2)(b) again after the time he walked past the living room and believed that § 87(2)(b) was taken to the precinct. Lt. Barry indicated that he might have seen § 87(2)(b) at the 48th Precinct during the arrest processing but was not certain. Lt. Barry did not recall if he saw when § 87(2)(b) was removed from the apartment and never saw him standing in the hallway. From the officers listed on the tactical plan, Det. Benero and Det. Rodriguez are the only officers who speak Spanish. Lt. Barry did not hear any officers speak in Spanish to § 87(2)(b). Lt. Barry indicated that he did not recall that for this incident they needed a Spanish interpreter to be present.

Lt. Barry did not have a copy of the search warrant and did not recall who had it. However, standard procedure is that a supervisor or the arresting officer would have a copy of the search warrant. Lt. Barry did not know if Captain Johnson had a copy of the search warrant. Lt. Barry was in the back bedroom for at least one hour to an hour and a half. § 87(2)(b) was not brought to the back bedroom while Lt. Barry was there searching. No one was brought in there. Lt. Barry did not hear § 87(2)(b) or § 87(2)(b) ask him or any officers to see a copy of the search warrant. Lt. Barry was dressed in plainclothes but he was not wearing shorts. Lt. Barry did not threaten § 87(2)(b) or § 87(2)(b) to notify ACS nor did he hear any officers make that threat. ACS was not called to the scene because it was unnecessary as § 87(2)(b) and the children were not arrested. Lt. Barry described the atmosphere of the incident as relaxed and with no animosity. Lt. Barry did not call § 87(2)(b) a “fucking faggot” nor did he hear an officer say this to § 87(2)(b). Lt. Barry did not tell § 87(2)(b) that he is a “fucking woman beater and did not hear an officer make this statement. Lt. Barry denied that he and/or any officers threatened to kick § 87(2)(b)’s “fucking ass” in front of his “fucking” kids, put § 87(2)(b)’s “fucking” head through the “fucking” wall and tell him that he could not do “shit” because he is in charge and he can do whatever the “fuck” he wanted. Lt. Barry denied using any discourtesies towards § 87(2)(b) nor did he hear any officers use discourtesies. Lt. Barry also denied using any threats of force towards § 87(2)(b) and denied hearing any officers make threats of force.

Witness Officer: DETECTIVE THOMAS DUNSING

- *He is a § 87(2)(b)-old white male who is 5’8” tall, weighs 225 pounds and has grey hair and hazel eyes.*
- *On October 7, 2011, Det. Dunsing worked from 3:00 a.m. to 5:00 p.m. He was working with PO Joseph Higgins and they were assigned to a search warrant. He was dressed in plainclothes and was working in an unmarked vehicle.*

Memo Book

At 3:00 a.m., search warrant preparation. At 6:10 a.m., search warrant executed and one under arrest. At 8:27 a.m., search warrant concluded. At 8:35 a.m., arrest processing (encl. 8A-B).

Arrest Report, Complaint Report, Criminal Court Complaint and Supporting Deposition

§ 87(2)(b) was arrested in connection to the incident, and charged with § 87(2)(b). At the location, he was found to be in possession of a samurai sword, nun-chucks, Chinese throwing star, miscellaneous bullets and a dagger (encl. 8C-H).

CCRB Statement

Det. Dunsing was interviewed at the CCRB on March 27, 2012 (encl. 8I-J). § 87(2)(g)

ESU entered the apartment first while Det. Dunsing and other officers of the Bronx Gang Squad were lined up waiting outside in the hallway. ESU brought § 87(2)(b) outside of the apartment in handcuffs and handed him to Det. Dunsing. § 87(2)(b) was dressed but he had no shoes or socks. ESU went back into the apartment to make sure that there were no other threats and once they cleared the apartment, a field team of officers from the Bronx Gang Squad entered the apartment. Det. Dunsing was with § 87(2)(b) in the hallway for five to ten minutes. § 87(2)(b) was angry and asked Det. Dunsing to see the search warrant. Det. Dunsing then showed § 87(2)(b) the copy of the search warrant that he had. Det. Dunsing stated that during the execution of a warrant, the arresting officer and supervisor are responsible to have a copy of the search warrant. Det. Dunsing stated that he and either Captain Johnson or Lt. Barry had a copy of the search warrant. He did not hear § 87(2)(b) request to see the search warrant from any other officer. He did not recall which officers were in the hallway with him at the time.

Det. Dunsing entered the apartment to conduct the search and he handed § 87(2)(b) to other officers who secured him. § 87(2)(b) was sitting on the stairwell and he remained in the hallway and he was never brought back into the apartment. Det. Dunsing did not know if any officers had any interaction with § 87(2)(b) during the incident. Det. Dunsing gave the search warrant that he had previously showed to § 87(2)(b) to § 87(2)(b) though she had not requested it.

During the incident, Det. Dunsing was dressed in blue jeans and an NYPD raid jacket. Det. Dunsing did not know if any officers were wearing shorts. Det. Dunsing stated that the only officers in the team who speak and/or understand Spanish are Det. Rodriguez and Det. Antonio Benero. However, Det. Dunsing believed that Det. Benero was performing outside security and did not recall seeing him in the apartment and/or building. Det. Dunsing also confirmed that Det. Holloway was not in the apartment and/or building during the incident.

Det. Dunsing denied that he and/or any other officers called § 87(2)(b) a “fucking faggot”, “fucking pato, or a “fucking” woman beater.” Det. Dunsing also denied that he and/or any officers threatened to kick § 87(2)(b) s “fucking ass” in front of his kids, put § 87(2)(b) s “fucking” head through the “fucking” wall and/or tell him that he could not do “shit.” Det. Dunsing did not hear any officers speak to § 87(2)(b) in Spanish. Det. Dunsing did not threaten § 87(2)(b) § 87(2)(b) or § 87(2)(b) with notifying ACS for the children nor did he hear any officers make ACS threats to § 87(2)(b) or § 87(2)(b). Det. Dunsing further denied that he and/or any other officers used any other discourtesies and/or threats of force during the incident.

Witness Officer: DETECTIVE JAMES SHANAHAN

- He is a § 87(2)(b)-old white male who is 5’7” tall, weighs 201 pounds and has salt and pepper hair and blue eyes.
- On October 7, 2011, Det. Shanahan worked from 3:27 a.m. until 12:00 p.m. He was assigned to the I-Team during the execution of a search warrant. He was in dressed in plainclothes and was assigned an Emergency Service vehicle.

Memo Book:

At 6:05 a.m., en route to a search warrant at § 87(2)(b) in the Bronx driving Emergency Service Unit truck. Arrived at location. At 7:00 a.m., en route to the 48th Precinct.

CCRB Statement:

Det. Shanahan was interviewed at the CCRB on May 21, 2012 (encl. 9A-F). § 87(2)(g)

Det. Shanahan was assigned outside security during the execution of a search warrant. Det. Shanahan's assignment consisted in making sure that no one entered the location and to secure the Emergency Services Unit (ESU) vehicles. He did not recall who exactly called him inside the apartment but does recall it was a supervisor who wanted Det. Shanahan to keep an eye on the children present. Det. Shanahan described that his only interaction was with the kids while he was in the apartment. Det. Shanahan did recall that Captain Johnson and Lt. Barry were inside the apartment. Det. Shanahan believed that the parents were in the other room but he did not have any contact with them. After being shown photographs of § 87(2)(b) and § 87(2)(b) Det. Shanahan denied having seen them. Det. Shanahan did not recall if § 87(2)(b) was still on the premises when Det. Shanahan entered the apartment. Det. Shanahan recalled Det. Rodriguez in the living room with him and the children. He denied knowing whether any of the officers from the tactical plan understood Spanish, and did not recall seeing Det. Benero in the apartment. Det. Shanahan stated that he speaks and understands "very, very little" Spanish.

Det. Shanahan did not recall any civilians in the apartment ask for the search warrant. He denied calling § 87(2)(b) a "fucking pato" which means "fucking faggot" in English and did not recall any officers make that statement to § 87(2)(b). Det. Shanahan did not recall him or any of the officers call § 87(2)(b) or any of the other civilians in the apartment a "fucking" woman beater. Det. Shanahan denied telling § 87(2)(b) or any of the other civilians that he would kick his "fucking ass" in front of his children or denied saying that he would put his "fucking" head through the "fucking" wall. Det. Shanahan denied saying that he would kick § 87(2)(b)'s "fucking ass" in front of his "fucking" children and that he was going to put his "fucking" head through the "fucking" wall and nobody can do "shit" because he is in charge and denied hearing any officers make that statement. Det. Shanahan denied using any threats of force and denied hearing any officers make threats of force. Det. Shanahan left the scene by himself and went to the 48th Precinct but there were still officers in the apartment at his departure.

Witness Officer: PO JOSEPH HIGGINS

- He is a § 87(2)(b)-old white male who is 5'8" tall, weighs 210 pounds and has black hair and blue eyes.
- On October 7, 2011, PO Higgins worked from 3:27 a.m. until 12:00 p.m. He was assigned to execute a search warrant. He was in plainclothes and was assigned an unmarked vehicle.

Memo Book:

At 6:10 a.m. search warrant execution. See Det. Dunsing for details. At 8:35 a.m. at the 48th precinct, 10-62A.

CCRB Statement:

PO Higgins was interviewed at the CCRB on May 22, 2012 (encl. 10A-F). § 87(2)(g)

PO Higgins recalled that § 87(2)(b) may have been standing by the hallway when he first encountered him. He recalled that § 87(2)(b)'s demeanor seemed "ok" and did not recall whether he made any statements. PO Higgins did not recall interacting with § 87(2)(b) or speaking to her. PO Higgins did recall guarding § 87(2)(b) outside the apartment in the hallway. Other officers were in and out of the apartment while he stood outside with § 87(2)(b) who was taken outside of the apartment to prepare him for transport. PO Higgins stated that § 87(2)(b) would "probably have clothes on" when they transported him. PO Higgins did recall that usually the arresting officer and a supervisor would have a copy of the search warrant. PO Higgins did not recall whether Lt. Barry or Captain Johnson had the warrant for this incident. PO Higgins denied hearing § 87(2)(b) request the search warrant. PO Higgins denied hearing § 87(2)(b) request the search warrant from any other officers. PO Higgins denied hearing § 87(2)(b) request the search warrant from him. PO Higgins denied hearing § 87(2)(b) request the search warrant from any other officers. PO Higgins recalled that he was wearing his raid jacket. PO Higgins did not recall whether he was wearing shorts. PO Higgins does not speak Spanish and does "not really" understand Spanish. PO Higgins has heard Det. Rodriguez speak Spanish but did not recall whether he has heard Det. Benereo speak Spanish. PO Higgins did not recall whether he saw Det. Benereo inside the apartment. PO Higgins did not recall any conversation between § 87(2)(b) and other officers. He did not recall if he escorted § 87(2)(b) outside the apartment to the hallway or whether another officer took him outside to PO Higgins. PO Higgins did not recall who escorted § 87(2)(b) outside to the car to be transported.

PO Higgins denied hearing any of the other officers make threats to notify ACS to § 87(2)(b) or § 87(2)(b). PO Higgins denied calling § 87(2)(b) a "fucking faggot" or a "fucking pato" which is the same statement in Spanish. PO Higgins denied hearing any of the other officers make either of these statements. PO Higgins denied calling § 87(2)(b) a "fucking woman beater" nor did he hear any officers make this statement to § 87(2)(b). PO Higgins denied that he threatened § 87(2)(b) that he would put § 87(2)(b)'s "fucking" head through the "fucking" wall and did not recall any officers make this threat towards § 87(2)(b). PO Higgins denied that he and/or any officers threatened to kick § 87(2)(b)'s "fucking ass" in front of his "fucking" kids, put § 87(2)(b)'s "fucking" head through the "fucking" wall and tell him that he could not do "shit" because he is in charge and he can do whatever the "fuck" he wanted. PO Higgins denied using any discourtesy towards § 87(2)(b) nor did he hear any officers use discourtesies. PO Higgins denied using any threats of force towards § 87(2)(b) and denied hearing any officers make threats of force. PO Higgins did not recall whether he went back into the apartment. Based on PO Higgins's memo book entries, he was there for the entire search. PO Higgins did not recall whether he went beyond the hallway of the apartment.

Officers Not Interviewed

The NYPD Monitoring and Analysis Section confirmed that Det. Antonio Benereo, a 6' tall, § 87(2)(b)-old Hispanic male with brown hair and eyes, retired from service as of December 31, 2011. § 87(2)(g) December 28, 2011, Lt. Swanson of the NYPD Monitoring and Analysis Section confirmed that Det. Holloway did not enter the apartment, and he was therefore not interviewed. Civilian and officer statements reflect that Det. Jacqueli Rodriguez was not present to witness the alleged threat of force, refusal to provide search warrant and discourtesy. § 87(2)(g)

NYPD Document(s)

Search Warrant

Search Warrant # § 87(2)(b) was authorized for § 87(2)(b) in the Bronx on § 87(2)(b) (encl. 11H). The residence was described as clearly marked. The

Identification of Subject Officers

The search warrant pre-execution plan reflects that Captain Lorezno Johnson of Bronx Gang Squad supervised the search of the location. § 87(2)(g)

Several of the officers involved in the incident conformed to § 87(2)(b)'s description for the subject officer of Allegations B through D. § 87(2)(b) subsequently failed to appear for two scheduled photo arrays § 87(2)(g)

Allegations Not Pleaded

- § 87(2)(g)
- § 87(2)(g)

Investigative Findings and Recommendations

Allegation A – Abuse of Authority: Captain Lorenzo Johnson supervised the entry and search of § 87(2)(b) in the Bronx.

Search Warrant # § 87(2)(b) was authorized for § 87(2)(b) in the Bronx by Supreme Court Justices § 87(2)(b) and § 87(2)(b). The warrant authorized the officers to enter the residence between the hours of 6:00 a.m. and 9:00 p.m. without announcing their presence or authority. § 87(2)(g)

Allegation B – Abuse of Authority: An officer refused to show a search warrant to § 87(2)(b)

Allegation C – Abuse of Authority: An officer threatened § 87(2)(b) with the use of force.

Allegation D – Discourtesy: An officer spoke obscenely and/or rudely to § 87(2)(b)

§ 87(2)(b) failed to appear for two scheduled photo arrays to identify the subject officers. § 87(2)(g)

Team: _____

:

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____

	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date